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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,118	09/21/2001	Steven R. Pearson	BEA920010027US1	5751

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IBM CORPORATION  
IP LAW DEPT, ED02-905  
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EXAMINER

FILIPCZYK, MARCIN R

ART UNIT PAPER NUMBER

2171

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/960,118

Applicant(s)

PEARSON, STEVEN R.

Examiner

Marc R Filipczyk

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to application filed on September 21, 2001 in which claims 1-14 are presented for examination. The information disclosure statements of 9/21/01 and 10/2/01 as well as change of address have been noted.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the article of claims 9-14 for use in a computer implemented replacement selection method including a medium and means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Figure 5A should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Or,

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 9 and 13 are rejected under 35 U.S.C. 102(a) as being anticipated by

Applicant's Admitted Prior Art (AAPA).

Regarding claims 1, 5, 6, 9 and 13, AAPA discloses a method for organizing data items from two or more input streams comprising the steps of: (p.1, par. 5, lines 2 and 3)

Identifying a data item being processed from one of the input streams as being a duplicate of a previously processed data item; (p.1, par. 6, line 6)

Retaining an indication that the data item being processed is a duplicate data item; (p.1, par. 6, lines 6 and 7; *-1,0,1 where 0 is equal or a duplicate*) and

Organizing the data items responsive to the indication that the data item being processed is a duplicate data item (p.1 par 6, lines 3-6 and par 7, line 2; *merging*).

(Note: for equal or duplicate key values after the key comparison the swap can be omitted)

Claims 1, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. Patent No. 5,832,068).

Regarding claims 1, 6 and 9, Smith discloses a method for organizing data items from two or more input streams comprising the steps of: (fig. 1, items 10 and 12 col. 1, lines 19-24)

Identifying a data item being processed from one of the input streams as being a duplicate of a previously processed data item; (fig. 3, items 103 and 108)

Retaining an indication that the data item being processed is a duplicate data item; (fig. 3, item 114) and

Organizing the data items responsive to the indication that the data item being processed is a duplicate data item (fig.1, item 1 and fig. 2, items 24, 26, 32 and 34).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 7, 8, 10-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Patent No. 5,832,068) in view of AAPA.

Regarding claims 2-4, 7, 8, 10-12 and 14, Smith and AAPA disclose all of the claimed subject matter as discussed above including an indication that data item is a duplicate (fig. 1, item 1 and fig. 2, items 24, 26, 32 and 34, Smith) but do not expressly teach that the indication of the data item is an integer corresponding to “empty”, “duplicate”, “merging” or “done” having associated values for every indication. However, AAPA teaches an ordered merging replacement selection wherein each node of a tree stores information about a “loser” of a prior sort key comparison among its children. Hence, it would have been obvious to a person of ordinary skill in the art having Smith’s indicator along with AAPA at the time the invention was made to modify Smith’s indicator in view of AAPA so that the unique integer values would indicate a specific task (e.g. value two for merging) because Smith’s data record exclusion indicator includes a generated unique data record identifier (col. 3, lines 27-29, Smith) and AAPA teaches the steps of the ordered merging by replacement, thus the modification would be simple having both arts at hand. One would have been motivated to combine Smith and AAPA

Art Unit: 2171

because both use special instructions for duplicate data processing in order to process data faster and more efficiently.

*Conclusion*

To expedite the process of examination Examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35 U.S.C. 112, objections and the like) set forth by the Examiner that Applicants provide and link to the most specific page and line numbers of the disclosure where the best support is found (see 35 U.S.C. 132).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc R Filipczyk whose telephone number is 703-305-7156.

The examiner can normally be reached on Mon-Fri, 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MF  
September 26, 2003

  
SAFET METJAHIC  
SUPERVISORY PATENT EXAMINER  
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